

**Senate Bill No. 1696**

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Passed the Senate      August 26, 2004

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*Secretary of the Senate*

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Passed the Assembly      August 23, 2004

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2004, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to amend Sections 13352.5, 13352.6, 23538, and 23542 of, and to add Section 13352.2 to, the Vehicle Code, relating to vehicles.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1696, Torlakson. Vehicles: driving under the influence: license restriction.

(1) Existing law requires the Department of Motor Vehicles to immediately suspend, revoke, or record the court-administered suspension or revocation of, the privilege of any person to operate a motor vehicle upon receipt of an abstract of the record of any court showing that the person has been convicted of specified provisions prohibiting driving under the influence (DUI). Existing law prohibits the reinstatement of that privilege until the person gives proof of financial responsibility and proof satisfactory to the department of successful completion of a driving-under-the-influence program, as specified.

This bill would prohibit the reinstatement of the person's driving privilege until the proof satisfactory to the department of successful completion of the driving-under-the-influence program has been received in the department's headquarters.

(2) This bill would incorporate additional changes in Section 13352.5 of the Vehicle Code proposed by SB 1697, to be operative only if this bill and SB 1697 are enacted and become effective on or before January 1, 2005, each bill amends Section 13352.5 of the Vehicle Code, and this bill is enacted last.

(3) This bill would incorporate additional changes in Section 13352.6 of the Vehicle Code proposed by SB 1694, to be operative only if this bill and SB 1694 are enacted and become effective on or before January 1, 2005, each bill amends Section 13352.6 of the Vehicle Code, and this bill is enacted last.

(4) This bill would incorporate additional changes in Section 23538 of the Vehicle Code proposed by SB 1697, to be operative only if this bill and SB 1697 are enacted and become effective on or before January 1, 2005, each bill amends Section 23538 of the Vehicle Code, and this bill is enacted last.



(5) This bill would incorporate additional changes in Section 23542 of the Vehicle Code proposed by SB 1697, to be operative only if this bill and SB 1697 are enacted and become effective on or before January 1, 2005, each bill amends Section 23542 of the Vehicle Code, and this bill is enacted last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 13352.2 is added to the Vehicle Code, to read:

13352.2. (a) If a person is required under Section 13352 to provide the department with proof of enrollment in a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code, the department shall deem that requirement satisfied upon receiving at its headquarters proof of enrollment that is satisfactory to the department and has been forwarded to the department by the program provider.

(b) If a person is required under Section 13352 to provide the department with proof of completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, or a program specified in Section 8001 of the Penal Code, the department shall deem that requirement satisfied upon receiving at its headquarters proof of completion that is satisfactory to the department and has been forwarded to the department by the program provider.

SEC. 2. Section 13352.5 of the Vehicle Code is amended to read:

13352.5. (a) The department shall issue a restricted driver's license to a person granted probation under the conditions described in subdivision (b) of Section 23542, or to a person described in subdivision (h), instead of suspending that person's license, if all of the following requirements have been met:

(1) Proof satisfactory to the department of enrollment in, or completion of, a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in paragraph (4) of subdivision (b) of Section 23542 has been received in the department's headquarters.

(2) The person submits proof of financial responsibility, as described in Section 16430.



(3) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(b) The restriction of the driving privilege shall become effective when the department receives all of the documents and fees required under subdivision (a) and shall remain in effect for the duration of the treatment program described in paragraph (4) of subdivision (b) of Section 23542.

(c) The restriction of the driving privilege shall be limited to the hours necessary for driving to and from the place of employment, driving during the course of employment, and driving to and from activities required in the treatment program.

(d) Whenever the driving privilege is restricted under this section, proof of financial responsibility, as defined in Section 16430, shall be maintained for three years. If the person does not maintain that proof of financial responsibility at any time during the restriction, the driving privilege shall be suspended until proof pursuant to Section 16484 is received by the department.

(e) The restriction imposed under this section may be removed when evidence satisfactory to the department that the person has completed a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code has been received in the department's headquarters. For the purposes of this section, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. No credit may be given to any program activities completed prior to the date of the current violation.

(f) The department shall immediately terminate the restriction imposed pursuant to this section and shall suspend the privilege to drive under paragraph (3) of subdivision (a) of Section 13352 upon receipt of notification from the treatment program that the person has failed to comply with the program requirements.

(g) Any person restricted pursuant to this section may apply to the department for a restricted driver's license, subject to the conditions specified in paragraph (3) of subdivision (a) of Section 13352. Whenever proof of financial responsibility has already been provided and a restriction fee has been paid in compliance with restrictions described in this section, and the offender subsequently receives an ignition interlock device restriction described in paragraph (3) of subdivision (a) of Section 13352, the proof of financial responsibility period shall not be extended



beyond the previously established term and no additional restriction fee shall be required.

(h) This section applies to a person who meets all of the following conditions:

(1) Has been convicted of a violation of Section 23152 that occurred on or before July 1, 1999, and is punishable under Section 23540, or former Section 23165.

(2) Was granted probation for the conviction subject to conditions imposed under subdivision (b) of Section 23542, or under subdivision (b) of former Section 23166.

(3) Is no longer subject to the probation described in paragraph (2).

(4) Has not completed the licensed driving-under-the-influence program under paragraph (3) of subdivision (a) of Section 13352 for reinstatement of the driving privilege.

(5) Has no violations in his or her driving record that would preclude issuance of a restricted driver's license.

SEC. 2.3. Section 13352.5 of the Vehicle Code is amended to read:

13352.5. (a) The department shall issue a restricted driver's license to a person granted probation under the conditions described in subdivision (b) of Section 23542, or to a person described in subdivision (h), instead of suspending that person's license, if all of the following requirements have been met:

(1) Proof satisfactory to the department of enrollment in, or completion of, a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in paragraph (4) of subdivision (b) of Section 23542 has been received in the department's headquarters.

(2) The person submits proof of financial responsibility, as described in Section 16430.

(3) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(b) The restriction of the driving privilege shall become effective when the department receives all of the documents and fees required under subdivision (a) and shall remain in effect for the duration of the treatment program described in paragraph (4) of subdivision (b) of Section 23542.



(c) The restriction of the driving privilege shall be limited to the hours necessary for driving to and from the place of employment, driving during the course of employment, and driving to and from activities required in the treatment program.

(d) Whenever the driving privilege is restricted under this section, proof of financial responsibility, as defined in Section 16430, shall be maintained for three years. If the person does not maintain that proof of financial responsibility at any time during the restriction, the driving privilege shall be suspended until proof pursuant to Section 16484 is received by the department.

(e) The restriction imposed under this section may be removed when evidence satisfactory to the department that the person has completed a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code has been received in the department's headquarters. For the purposes of this section, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. No credit may be given to any program activities completed prior to the date of the current violation.

(f) The department shall immediately terminate the restriction imposed pursuant to this section and shall suspend the privilege to drive under paragraph (3) of subdivision (a) of Section 13352 upon receipt of notification from the treatment program that the person has failed to comply with the program requirements.

(g) Any person restricted pursuant to this section may apply to the department for a restricted driver's license, subject to the conditions specified in paragraph (3) of subdivision (a) of Section 13352. Whenever proof of financial responsibility has already been provided and a restriction fee has been paid in compliance with restrictions described in this section, and the offender subsequently receives an ignition interlock device restriction described in paragraph (3) of subdivision (a) of Section 13352, the proof of financial responsibility period shall not be extended beyond the previously established term and no additional restriction fee shall be required.

(h) This section applies to a person who meets all of the following conditions:

(1) Has been convicted of a violation of Section 23152 that occurred on or before July 1, 1999, and is punishable under Section 23540, or former Section 23165.



(2) Was granted probation for the conviction subject to conditions imposed under subdivision (b) of Section 23542, or under subdivision (b) of former Section 23166.

(3) Is no longer subject to the probation described in paragraph (2).

(4) Has not completed the licensed driving-under-the-influence program under paragraph (3) of subdivision (a) of Section 13352 for reinstatement of the driving privilege.

(5) Has no violations in his or her driving record that would preclude issuance of a restricted driver's license.

(i) This section shall become inoperative on September 20, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2.5. Section 13352.5 is added to the Vehicle Code, to read:

13352.5. (a) The department shall issue a restricted driver's license to a person whose driver's license was suspended under paragraph (3) of subdivision (a) of Section 13352, if all of the following requirements have been met:

(1) Proof satisfactory to the department of enrollment in, or completion of, a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as described in subdivision (b) of Section 23542 has been received in the department's headquarters.

(2) The person submits proof of financial responsibility, as described in Section 16430.

(3) The person completes not less than 12 months of the suspension period imposed under paragraph (3) of subdivision (a) of Section 13352. The 12 months may include credit for any suspension period served under subdivision (c) of Section 13353.3.

(4) The person pays all applicable reinstatement or reissue fees and any restriction fee required by the department.

(b) The restriction of the driving privilege shall become effective when the department receives all of the documents and fees required under subdivision (a) and shall remain in effect until the final day of the original suspension imposed under paragraph (3) of subdivision (a) of Section 13352, or until the date all



reinstatement requirements described in Section 13352 have been met, whichever date is later.

(c) The restriction of the driving privilege shall be limited to the hours necessary for driving to and from the person's place of employment, driving during the course of employment, and driving to and from activities required in the driving-under-the-influence program.

(d) Whenever the driving privilege is restricted under this section, proof of financial responsibility, as defined in Section 16430, shall be maintained for three years. If the person does not maintain that proof of financial responsibility at any time during the restriction, the driving privilege shall be suspended until the proof required under Section 16484 is received by the department.

(e) For the purposes of this section, enrollment, participation, and completion of an approved program shall be subsequent to the date of the current violation. No credit may be given to any program activities completed prior to the date of the current violation.

(f) The department shall terminate the restriction imposed pursuant to this section and shall suspend the privilege to drive under paragraph (3) of subdivision (a) of Section 13352 upon receipt of notification from the driving-under-the-influence program that the person has failed to comply with the program requirements.

(g) If, upon conviction, the court has made the determination, as authorized under subdivision (b) of Section 23540 or subdivision (d) of Section 23542, to disallow the issuance of a restricted driver's license, the department may not issue a restricted driver's license under this section.

(h) Any person restricted pursuant to this section may apply to the department for a restricted driver's license, subject to the conditions specified in paragraph (3) of subdivision (a) of Section 13352. Whenever proof of financial responsibility has already been provided and a restriction fee has been paid in compliance with restrictions described in this section, and the offender subsequently receives an ignition interlock device restriction described in paragraph (3) of subdivision (a) of Section 13352, the proof of financial responsibility period shall not be extended beyond the previously established term and no additional restriction fee shall be required.





(i) This section applies to a person who meets all of the following conditions:

(1) Has been convicted of a violation of Section 23152 that occurred on or before July 1, 1999, and is punishable under Section 23540, or former Section 23165.

(2) Was granted probation for the conviction subject to conditions imposed under subdivision (b) of Section 23542, or under subdivision (b) of former Section 23166.

(3) Is no longer subject to the probation described in paragraph (2).

(4) Has not completed the licensed driving-under-the-influence program under paragraph (3) of subdivision (a) of Section 13352 for reinstatement of the driving privilege.

(5) Has no violations in his or her driving record that would preclude issuance of a restricted driver's license.

(j) This section shall become operative on September 20, 2005.

SEC. 3. Section 13352.6 of the Vehicle Code is amended to read:

13352.6. (a) The department shall immediately suspend the driving privilege of any person who is 18 years of age or older and is convicted of a violation of Section 23140, upon receipt of a duly certified abstract of the record of any court showing that conviction. The privilege may not be reinstated until the person provides the department with proof of financial responsibility and until proof satisfactory to the department of successful completion of a driving-under-the-influence program licensed under Section 11836 of the Health and Safety Code has been received in the department's headquarters. That attendance shall be as follows:

(1) If, within seven years of the current violation of Section 23140, the person has not been convicted of a separate violation of Section 23140, 23152, or 23153, or of Section 23103, with a plea of guilty under Section 23103.5, or of Section 655 of the Harbors and Navigation Code, or of Section 191.5 of, or paragraph (3) of subdivision (c) of Section 192 of, the Penal Code, the person shall complete, at a minimum, the education component of that licensed driving-under-the-influence program.

(2) If the person does not meet the requirements of paragraph (1), the person shall complete, at a minimum, the program



described in paragraph (1) of subdivision (c) of Section 11837 of the Health and Safety Code.

(b) For the purposes of this section, enrollment, participation, and completion of the program shall be subsequent to the date of the current violation. No credit for enrollment, participation, or completion may be given for any program activities completed prior to the date of the current violation.

SEC. 3.5. Section 13352.6 of the Vehicle Code is amended to read:

13352.6. (a) The department shall immediately suspend the driving privilege of any person who is 18 years of age or older and is convicted of a violation of Section 23140, upon the receipt of a duly certified abstract of the record of any court showing that conviction. The privilege may not be reinstated until the person provides the department with proof of financial responsibility and until proof satisfactory to the department, of successful completion of a driving-under-the-influence program licensed under Section 11836 of the Health and Safety Code has been received in the department's headquarters. That attendance shall be as follows:

(1) If, within 10 years of the current violation of Section 23140, the person has not been convicted of a separate violation of Section 23140, 23152, or 23153, or of Section 23103, with a plea of guilty under Section 23103.5, or of Section 655 of the Harbors and Navigation Code, or of Section 191.5 of, or paragraph (3) of subdivision (c) of Section 192 of, the Penal Code, the person shall complete, at a minimum, the education component of that licensed driving-under-the-influence program.

(2) If the person does not meet the requirements of paragraph (1), the person shall complete, at a minimum, the program described in paragraph (1) of subdivision (c) of Section 11837 of the Health and Safety Code.

(b) For the purposes of this section, enrollment, participation, and completion of the program shall be subsequent to the date of the current violation. Credit for enrollment, participation, or completion may not be given for any program activities completed prior to the date of the current violation.

SEC. 4. Section 23538 of the Vehicle Code is amended to read:



23538. (a) Except as provided in subdivision (d), if the court grants probation to any person punished under Section 23536, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be subject to one of the following:

(1) Be confined in the county jail for at least 48 hours but not more than six months, and pay a fine of at least three hundred ninety dollars (\$390), but not more than one thousand dollars (\$1,000). Except as provided in paragraph (2), the person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to paragraph (1) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(2) Pay a fine of at least three hundred ninety dollars (\$390) but not more than one thousand dollars (\$1,000), and, if the person gives proof of financial responsibility, as defined in Section 16430, to the Department of Motor Vehicles, have the privilege to operate a motor vehicle restricted for 90 days to necessary travel to and from that person's place of employment and to and from participation in a program described in subdivision (b). If driving a motor vehicle is necessary to perform the duties of the person's employment, the restriction also shall allow the person to drive to locations within the person's scope of employment. Whenever the driving privilege is restricted pursuant to this paragraph, the person shall maintain proof of financial responsibility for three years.

(3) If the court elects to order a 90-day restriction as provided for in paragraph (2), the court shall order and advise the person of the following matters:

(A) If the person's privilege to operate a motor vehicle is suspended under Section 13353.2, the court-ordered restriction does not allow the person to operate a motor vehicle unless the suspension under Section 13353.2 has either been served to completion or set aside, and his or her license has been reinstated. The restriction of the driver's license described in paragraph (2) shall commence upon the reinstatement of the privilege to operate a motor vehicle.



(B) If a suspension was not imposed pursuant to Section 13353.2, the person shall be advised by the court that the person's driving privilege may be suspended by the department pursuant to subdivision (c) of Section 13352.4 until proof of financial responsibility is provided.

(b) In any county where the board of supervisors has approved, and the State Department of Alcohol and Drug Programs has licensed, a program or programs described in Section 11837.3 of the Health and Safety Code, the court shall also impose as a condition of probation that the driver shall enroll and participate in, and successfully complete a driving-under-the-influence program, licensed pursuant to Section 11836 of the Health and Safety Code, in the driver's county of residence or employment, as designated by the court.

(1) The court shall refer a first offender whose blood-alcohol concentration was less than 0.20 percent, by weight, to participate for at least three months or longer, as ordered by the court, in a licensed program that consists of at least 30 hours of program activities, including those education, group counseling, and individual interview sessions described in Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code.

(2) The court shall refer a first offender whose blood-alcohol concentration was 0.20 percent or more, by weight, or who refused to take a chemical test, to participate for at least six months or longer, as ordered by the court, in a licensed program that consists of at least 45 hours of program activities, including those education, group counseling, and individual interview sessions described in Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code.

(3) The court shall advise the person at the time of sentencing that the driving privilege shall not be restored until proof satisfactory to the Department of Motor Vehicles of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code has been received in the department's headquarters.

(c) (1) The court shall revoke the person's probation pursuant to Section 23602, except for good cause shown, for the failure to enroll in, participate in, or complete a program specified in subdivision (b).



(2) The court, in establishing reporting requirements, shall consult with the county alcohol program administrator. The county alcohol program administrator shall coordinate the reporting requirements with the department and with the State Department of Alcohol and Drug Programs. That reporting shall ensure that all persons who, after being ordered to attend and complete a program, may be identified for either (A) failure to enroll in, or failure to successfully complete, the program, or (B) successful completion of the program as ordered.

(d) Notwithstanding subdivision (a), if the offense occurred in a vehicle requiring a driver with a class A or class B driver's license or with an endorsement specified in Section 15278, the court shall upon conviction order the department to suspend the driver's privilege pursuant to paragraph (1) of subdivision (a) of Section 13352.

SEC. 4.3. Section 23538 of the Vehicle Code is amended to read:

23538. (a) Except as provided in subdivision (d), if the court grants probation to any person punished under Section 23536, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the person be subject to one of the following:

(1) Be confined in the county jail for at least 48 hours but not more than six months, and pay a fine of at least three hundred ninety dollars (\$390), but not more than one thousand dollars (\$1,000). Except as provided in paragraph (2), the person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to paragraph (1) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(2) Pay a fine of at least three hundred ninety dollars (\$390) but not more than one thousand dollars (\$1,000), and, if the person gives proof of financial responsibility, as defined in Section 16430, to the Department of Motor Vehicles, have the privilege to operate a motor vehicle restricted for 90 days to necessary travel to and from that person's place of employment and to and from participation in a program described in subdivision (b). If driving a motor vehicle is necessary to perform the duties of the person's



employment, the restriction also shall allow the person to drive to locations within the person's scope of employment. Whenever the driving privilege is restricted pursuant to this paragraph, the person shall maintain proof of financial responsibility for three years.

(3) If the court elects to order a 90-day restriction as provided for in paragraph (2), the court shall order and advise the person of the following matters:

(A) If the person's privilege to operate a motor vehicle is suspended under Section 13353.2, the court-ordered restriction does not allow the person to operate a motor vehicle unless the suspension under Section 13353.2 has either been served to completion or set aside, and his or her license has been reinstated. The restriction of the driver's license described in paragraph (2) shall commence upon the reinstatement of the privilege to operate a motor vehicle.

(B) If a suspension was not imposed pursuant to Section 13353.2, the person shall be advised by the court that the person's driving privilege may be suspended by the department pursuant to subdivision (c) of Section 13352.4 until proof of financial responsibility is provided.

(b) In any county where the board of supervisors has approved, and the State Department of Alcohol and Drug Programs has licensed, a program or programs described in Section 11837.3 of the Health and Safety Code, the court shall also impose as a condition of probation that the driver shall enroll and participate in, and successfully complete a driving-under-the-influence program, licensed pursuant to Section 11836 of the Health and Safety Code, in the driver's county of residence or employment, as designated by the court.

(1) The court shall refer a first offender whose blood-alcohol concentration was less than 0.20 percent, by weight, to participate for at least three months or longer, as ordered by the court, in a licensed program that consists of at least 30 hours of program activities, including those education, group counseling, and individual interview sessions described in Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code.

(2) The court shall refer a first offender whose blood-alcohol concentration was 0.20 percent or more, by weight, or who refused



to take a chemical test, to participate for at least six months or longer, as ordered by the court, in a licensed program that consists of at least 45 hours of program activities, including those education, group counseling, and individual interview sessions described in Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code.

(3) The court shall advise the person at the time of sentencing that the driving privilege shall not be restored until proof satisfactory to the Department of Motor Vehicles of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code has been received in the department's headquarters.

(c) (1) The court shall revoke the person's probation pursuant to Section 23602, except for good cause shown, for the failure to enroll in, participate in, or complete a program specified in subdivision (b).

(2) The court, in establishing reporting requirements, shall consult with the county alcohol program administrator. The county alcohol program administrator shall coordinate the reporting requirements with the department and with the State Department of Alcohol and Drug Programs. That reporting shall ensure that all persons who, after being ordered to attend and complete a program, may be identified for either (A) failure to enroll in, or failure to successfully complete, the program, or (B) successful completion of the program as ordered.

(d) Notwithstanding subdivision (a), if the offense occurred in a vehicle requiring a driver with a class A or class B driver's license or with an endorsement specified in Section 15278, the court shall upon conviction order the department to suspend the driver's privilege pursuant to paragraph (1) of subdivision (a) of Section 13352.

(e) This section shall become inoperative on September 20, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4.5. Section 23538 is added to the Vehicle Code, to read:

23538. (a) (1) If the court grants probation to a person punished under Section 23536, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as a condition of probation that the





person pay a fine of at least three hundred ninety dollars (\$390), but not more than one thousand dollars (\$1,000). The court may also impose, as a condition of probation, that the person be confined in a county jail for at least 48 hours, but not more than six months.

(2) The person's privilege to operate a motor vehicle shall be suspended by the department under paragraph (1) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(3) Whenever, when considering the circumstances taken as a whole, the court determines that the person punished under this section would present a traffic safety or public safety risk if authorized to operate a motor vehicle during the period of suspension imposed under paragraph (1) of subdivision (a) of Section 13352, the court may disallow the issuance of a restricted driver's license required under Section 13352.4.

(b) In any county where the board of supervisors has approved, and the State Department of Alcohol and Drug Programs has licensed, a program or programs described in Section 11837.3 of the Health and Safety Code, the court shall also impose as a condition of probation that the driver shall enroll and participate in, and successfully complete a driving-under-the-influence program, licensed pursuant to Section 11836 of the Health and Safety Code, in the driver's county of residence or employment, as designated by the court. For the purposes of this subdivision, enrollment in, participation in, and completion of an approved program shall be subsequent to the date of the current violation. Credit may not be given for any program activities completed prior to the date of the current violation.

(1) The court shall refer a first offender whose blood-alcohol concentration was less than 0.20 percent, by weight, to participate for at least three months or longer, as ordered by the court, in a licensed program that consists of at least 30 hours of program activities, including those education, group counseling, and individual interview sessions described in Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code.

(2) The court shall refer a first offender whose blood-alcohol concentration was 0.20 percent or more, by weight, or who refused





to take a chemical test, to participate for at least six months or longer, as ordered by the court, in a licensed program that consists of at least 45 hours of program activities, including those education, group counseling, and individual interview sessions described in Chapter 9 (commencing with Section 11836) of Part 2 of Division 10.5 of the Health and Safety Code.

(3) The court shall advise the person at the time of sentencing that the driving privilege shall not be restored until proof satisfactory to the department of successful completion of a driving-under-the-influence program of the length required under this code that is licensed pursuant to Section 11836 of the Health and Safety Code has been received in the department's headquarters.

(c) (1) The court shall revoke the person's probation pursuant to Section 23602, except for good cause shown, for the failure to enroll in, participate in, or complete a program specified in subdivision (b).

(2) The court, in establishing reporting requirements, shall consult with the county alcohol program administrator. The county alcohol program administrator shall coordinate the reporting requirements with the department and with the State Department of Alcohol and Drug Programs. That reporting shall ensure that all persons who, after being ordered to attend and complete a program, may be identified for either (A) failure to enroll in, or failure to successfully complete, the program, or (B) successful completion of the program as ordered.

(d) This section shall become operative on September 20, 2005.

SEC. 5. Section 23542 of the Vehicle Code is amended to read:

23542. If the court grants probation to any person punished under Section 23540, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be subject to either subdivision (a) or (b), as follows:

(a) Be confined in the county jail for at least 10 days but not more than one year, and pay a fine of at least three hundred ninety dollars (\$390), but not more than one thousand dollars (\$1,000). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to



paragraph (3) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(b) All of the following:

(1) Be confined in the county jail for at least 96 hours, but not more than one year. A sentence of 96 hours of confinement shall be served in two increments consisting of a continuous 48 hours each. The two 48-hour increments may be served nonconsecutively.

(2) Pay a fine of at least three hundred ninety dollars (\$390), but not more than one thousand dollars (\$1,000).

(3) Have the privilege to operate a motor vehicle be restricted by the Department of Motor Vehicles pursuant to Section 13352.5. Until all conditions prescribed in this section are met, the person's driving privilege is suspended pursuant to paragraph (3) of subdivision (a) of Section 13352. This paragraph does not apply if the offense occurred in a vehicle requiring a driver with a class A or class B driver's license or with an endorsement prescribed in Section 15278.

(4) Either of the following:

(A) Enroll and participate, for at least 18 months subsequent to the date of the underlying violation and in a manner satisfactory to the court, in a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as designated by the court. The person shall complete the entire program subsequent to, and shall not be given any credit for any program activities completed prior to, the date of the current violation. The program shall provide for persons who cannot afford the program fee pursuant to paragraph (2) of subdivision (b) of Section 11837.4 of the Health and Safety Code in order to enable those persons to participate.

(B) Enroll and participate, for at least 30 months subsequent to the date of the underlying violation and in a manner satisfactory to the court, in a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. The person shall complete the entire program subsequent to, and shall not be given any credit for any program activities completed prior to, the date of the current violation.

(c) The court shall advise the person at the time of sentencing that the driving privilege shall not be restored until proof



satisfactory to the Department of Motor Vehicles of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code has been received in the department's headquarters.

SEC. 5.3. Section 23542 of the Vehicle Code is amended to read:

23542. If the court grants probation to any person punished under Section 23540, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be subject to either subdivision (a) or (b), as follows:

(a) Be confined in the county jail for at least 10 days but not more than one year, and pay a fine of at least three hundred ninety dollars (\$390), but not more than one thousand dollars (\$1,000). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to paragraph (3) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(b) All of the following:

(1) Be confined in the county jail for at least 96 hours, but not more than one year. A sentence of 96 hours of confinement shall be served in two increments consisting of a continuous 48 hours each. The two 48-hour increments may be served nonconsecutively.

(2) Pay a fine of at least three hundred ninety dollars (\$390), but not more than one thousand dollars (\$1,000).

(3) Have the privilege to operate a motor vehicle be restricted by the Department of Motor Vehicles pursuant to Section 13352.5. Until all conditions prescribed in this section are met, the person's driving privilege is suspended pursuant to paragraph (3) of subdivision (a) of Section 13352. This paragraph does not apply if the offense occurred in a vehicle requiring a driver with a class A or class B driver's license or with an endorsement prescribed in Section 15278.

(4) Either of the following:

(A) Enroll and participate, for at least 18 months subsequent to the date of the underlying violation and in a manner satisfactory to the court, in a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as



designated by the court. The person shall complete the entire program subsequent to, and shall not be given any credit for any program activities completed prior to, the date of the current violation. The program shall provide for persons who cannot afford the program fee pursuant to paragraph (2) of subdivision (b) of Section 11837.4 of the Health and Safety Code in order to enable those persons to participate.

(B) Enroll and participate, for at least 30 months subsequent to the date of the underlying violation and in a manner satisfactory to the court, in a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. The person shall complete the entire program subsequent to, and shall not be given any credit for any program activities completed prior to, the date of the current violation.

(c) The court shall advise the person at the time of sentencing that the driving privilege shall not be restored until proof satisfactory to the Department of Motor Vehicles of successful completion of a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code has been received in the department's headquarters.

(d) This section shall become inoperative on September 20, 2005, and, as of January 1, 2006, is repealed, unless a later enacted statute that is enacted before January 1, 2006, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5.5. Section 23542 is added to the Vehicle Code, to read:

23542. (a) (1) If the court grants probation to a person punished under Section 23540, in addition to the provisions of Section 23600 and any other terms and conditions imposed by the court, the court shall impose as conditions of probation that the person be confined in a county jail and fined under either of the following:

(A) For at least 10 days, but not more than one year, and pay a fine of at least three hundred ninety dollars (\$390), but not more than one thousand dollars (\$1,000).

(B) For at least 96 hours, but not more than one year, and pay a fine of at least three hundred ninety dollars (\$390), but not more than one thousand dollars (\$1,000). A sentence of 96 hours of confinement shall be served in two increments consisting of a continuous 48 hours each. The two 48-hour increments may be served nonconsecutively.



(2) The person's privilege to operate a motor vehicle shall be suspended by the department under paragraph (3) of subdivision (a) of Section 13352. The court shall require the person to surrender the driver's license to the court in accordance with Section 13550.

(b) In addition to the conditions specified in subdivision (a), the court shall require the person to do either of the following:

(1) Enroll and participate, for at least 18 months subsequent to the date of the underlying violation and in a manner satisfactory to the court, in a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code, as designated by the court. The person shall complete the entire program subsequent to, and shall not be given any credit for any program activities completed prior to, the date of the current violation. The program shall provide for persons who cannot afford the program fee pursuant to paragraph (2) of subdivision (b) of Section 11837.4 of the Health and Safety Code in order to enable those persons to participate.

(2) Enroll and participate, for at least 30 months subsequent to the date of the underlying violation and in a manner satisfactory to the court, in a driving-under-the-influence program licensed pursuant to Section 11836 of the Health and Safety Code. The person shall complete the entire program subsequent to, and shall not be given any credit for any program activities completed prior to, the date of the current violation.

(c) The court shall advise the person at the time of sentencing that the driving privilege shall not be restored until proof satisfactory to the Department of Motor Vehicles of successful completion of a driving-under-the-influence program of the length required under this code licensed pursuant to Section 11836 of the Health and Safety Code has been received in the department's headquarters.

(d) Whenever, when considering the circumstances taken as a whole, the court determines that the person punished under this section would present a traffic safety or public safety risk if authorized to operate a motor vehicle during the period of suspension imposed under paragraph (3) of subdivision (a) of Section 13352, the court may disallow the issuance of a restricted driver's license required under Section 13352.5.

(e) This section shall become operative on September 20, 2005.



SEC. 6. Sections 2.3 and 2.5 of this bill incorporate amendments to Section 13352.5 of the Vehicle Code proposed by both this bill and SB 1697. Sections 2.3 and 2.5 of this bill shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 13352.5 of the Vehicle Code, and (3) this bill is enacted after SB 1697, in which case Section 2 of this bill shall not become operative.

SEC. 7. Section 3.5 of this bill incorporates amendments to Section 13352.6 of the Vehicle Code proposed by both this bill and SB 1694. Section 3.5 of this bill shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 13352.6 of the Vehicle Code, and (3) this bill is enacted after SB 1694, in which case Section 3 of this bill shall not become operative.

SEC. 8. Section 4.3 and 4.5 of this bill incorporate amendments to Section 23538 of the Vehicle Code proposed by both this bill and SB 1697. Sections 4.3 and 4.5 of this bill shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 23538 of the Vehicle Code, and (3) this bill is enacted after SB 1697, in which case Section 4 of this bill shall not become operative.

SEC. 9. Sections 5.3 and 5.5 of this bill incorporate amendments to Section 23542 of the Vehicle Code proposed by both this bill and SB 1697. Sections 5.3 and 5.5 of this bill shall become operative only if (1) both bills are enacted and become effective on or before January 1, 2005, (2) each bill amends Section 23542 of the Vehicle Code, and (3) this bill is enacted after SB 1697, in which case Section 5 of this bill shall not become operative.



Approved \_\_\_\_\_, 2004

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*Governor*

